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Attorneys for Third-Party Defendant,  
BATES METAL PRODUCTS, INC.

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

ESPERANZA HOPE PHAM,

Plaintiff,

vs.

WAL-MART STORES, INC. dba SAM'S  
CLUB STORE #6382; SAM'S WEST INC.;  
NIC HESTAND; NATIONAL BEDDING  
COMPANY, LLC; SERTA INC; FOX  
MARKETING CORPORATION aka FOX  
MARKETING CORPORATION aka  
FOXMARK; DOES I-X, inclusive; and ROE  
CORPORATIONS I-X, inclusive,

Defendants.

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FOX MARKETING CORPORATION,

Third-Party Plaintiff,

vs.

BATES METAL PRODUCTS, INC.; ROE  
individuals 11-20; and ZOE  
CORPORATIONS AND ORGANIZATIONS  
11-20, inclusive,

Third-Party Defendants.

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NATIONAL BEDDING COMPANY LLC  
and SERTA INC.,

Cross-Claimants,

vs.

CASE NO. 2:11-cv-01148-KJD-GWF

**ORDER GRANTING BATES METAL  
PRODUCTS' MOTION FOR  
DETERMINATION OF GOOD FAITH  
SETTLEMENT AND DISMISSAL OF THIRD  
PARTY COMPLAINT**

1 FOX MARKETING CORPORATION;  
2 MOES 1-100 inclusive,

3 Cross-Defendants.  
4

5 THIS MATTER, having come before the court for hearing on an Order Shortening Time, on  
6 November 28, 2012, on Third Party Defendants Bates Metal Products, Inc.'s (hereinafter referred to as  
7 "Bates") [129] Motion for Good Faith Settlement Determination and Order Dismissing the Third Party  
8 Complaint of Third Party Plaintiff Fox Marketing Corporation, the Honorable Kent J. Dawson  
9 presiding, Third Party Defendant Bates represented by Colby D. Beck, Esq. of Boyack Beck & Taylor,  
10 the Plaintiff represented by Douglas M. Chen, Esq. Of Fennemore Craig, P.C., Defendants San's West,  
11 Inc., Nic Estand, National Bedding Company LLC, and Serta, Inc., represented by Brad R. Kohler II,  
12 Esq., of Tharpe & Howell, LLP, and Defendant Fox Marketing Corporation represented by Kenneth E.  
13 Goates, Esq. of the Law Offices of Kenneth E. Goates, the court, having reviewed the Motion and all  
14 relevant pleadings and papers on file, received no opposition, considered the representations of counsel,  
15 and all issues being fully disclosed by counsel, being fully advised in the premises, and good cause  
16 appearing therefor,  
17

18 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Bates' Twenty Five Thousand  
19 Dollar (\$25,000.00) contribution to the settlement amount of Two Hundred Seventy Five Thousand  
20 Dollars (\$275,000.00) with Plaintiff is fair, reasonable, and made in Good Faith pursuant to NRS  
21 17.245;  
22

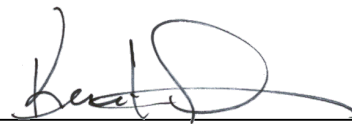
23 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Bates' settlement  
24 expressly includes and discharges the past, present, and future claims, liabilities, and causes of action  
25 asserted by Fox Marketing Corporation and/or Plaintiff against Bates arising from the facts and  
26 allegations of Plaintiff's Complaint including all claims for contribution and equitable and/or implied  
27 indemnity;  
28

1 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that the Court has  
2 reviewed and considered all the factors set forth in *The Doctors Co. v. Vincent*, 98 P.3d 681, 120 Nev.  
3 644 (Nev. 2004) and *MGM Grand Hotel Fire Litigation*, 570 F.Supp. 913, 927 (D. Nev. 1983) and  
4 finds that the amount of the settlement of Bates is reasonable and in good faith consistent with those  
5 case and is in line with "the relative liability permutations of the particular contribution or indemnity  
6 action known to it, including the strengths and weaknesses of the contribution and indemnity claims."  
7 *The Doctors Co.*, 98 P.3d at 687. The Court specifically notes that liability of Bates in this matter is  
8 tenuous, at best and that settlement amount is reasonable in light of the strength of defenses available;

9 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Third Party  
10 Plaintiff Fox Marketing Corporation's Third Party Complaint is hereby dismissed with prejudice in its  
11 entirety;

12 IT IS HEREBY FURTHER ORDERED, ADJUDGED AND DECREED that Bates' instant  
13 Motions for Determination fo Good Faith Settlement and to Dismiss Third Party Complaint With  
14 Prejudice are GRANTED.

15 **IT IS SO ORDERED.**

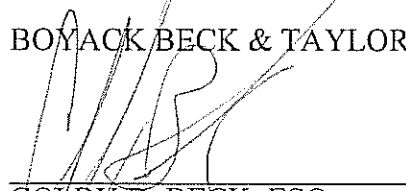
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18 UNITED STATES DISTRICT COURT JUDGE

19 Dated: December 20, 2012

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21  
22 Respectfully Submitted By:

23 BOYACK BECK & TAYLOR

24  
25   
26 COLBY D. BECK, ESQ.

27 Nevada Bar No. 6899

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Attorneys for Third-Party Defendant,

BATES METAL PRODUCTS, INC.